

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

**LAMAR BURNO,**

**Plaintiff,**

**CIVIL ACTION NO. 14-cv-12262**

**v.**

**DISTRICT JUDGE JOHN CORBETT O'MEARA**

**MICHAEL ANGELO, et al.,**

**MAGISTRATE JUDGE MONA K. MAJZOUN**

**Defendants.**

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**REPORT AND RECOMMENDATION**

**I. RECOMMENDATION**

It is recommended that Defendants Michael Angelo, Pacific Marketing, Inc., John Does 1-10, and XYZ Corporations 1-10 be dismissed from this action with prejudice pursuant to Federal Rule of Civil Procedure 4(m).

**II. REPORT**

Plaintiff Lamar Burno filed the instant employment discrimination action on June 5, 2014, alleging that Defendants discriminated against him on the basis of race, color, and national origin. (Docket no. 1.) On June 24, 2014, the Court granted Plaintiff's Application to Proceed *In Forma Pauperis* and his request for service of process by the U.S. Marshals Service. (Docket nos. 4 and 5.) The U.S. Marshals Service was directed, but was unable, to serve Defendants Angelo and Pacific Marketing, Inc. at the addresses provided by Plaintiff. (Docket nos. 15 and 16.) Plaintiff has not provided the Court with identifying information or addresses for any of the unnamed defendants. On October 28, 2015, the Court entered an Order to Show Cause directing Plaintiff to respond in writing on or before November 13, 2015, and explain why Plaintiff's

claims against Defendants Angelo, Pacific Marketing, Inc., John Does 1-10, and XYZ Corps. 1-10 “should not be dismissed for failure to comply with Fed. R. Civ. P. 4(m).” (Docket no. 23.)

The time for service of the summons and complaint is established under Federal Rule of Civil Procedure 4(m), which provides that service must be made within 120 days after the filing of the complaint. “If a defendant is not served within 120 days after the complaint is filed, the court - on motion or on its own after notice to the plaintiff - must dismiss the action without prejudice against that defendant or order that service be made within a specified time.” Fed. R. Civ. P. 4(m). Service has not been effected on Defendants Angelo, Pacific Marketing, Inc., John Does 1-10, or XYZ Corps. 1-10 within the time allotted under Rule 4(m). To date, Plaintiff has not responded to the Court’s Order to Show Cause, requested an extension of time to identify the unnamed defendants, or shown good cause to further extend the time for service. Accordingly, it is recommended that Plaintiff’s claims against Defendants Michael Angelo, Pacific Marketing, Inc., John Does 1-10, and XYZ Corps. 1-10 be dismissed with prejudice for failure to comply with Federal Rule of Civil Procedure 4(m).

### **III. NOTICE TO PARTIES REGARDING OBJECTIONS**

The parties to this action may object to and seek review of this Report and Recommendation, but are required to act within fourteen (14) days of service of a copy hereof as provided for in 28 U.S.C. § 636(b)(1) and Eastern District of Michigan Local Rule 72.1(d). Failure to file specific objections constitutes a waiver of any further right of appeal. *Thomas v. Arn*, 474 U.S. 140, 149 (1985); *Howard v. Sec’y of Health & Human Servs.*, 932 F.2d 505 (6th Cir. 1991); *U.S. v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981). Filing of objections that raise some issues but fail to raise others with specificity, will not preserve all the objections a party might have to this Report and Recommendation. *Willis v. Sec’y of Health & Human Servs.*, 931

F.2d 390, 401 (6th Cir. 1991); *Smith v. Detroit Fed’n Of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Pursuant to E.D. Mich. LR 72.1(d)(2), a copy of any objections is to be served upon this Magistrate Judge.

Any objections must be labeled as “Objection #1,” “Objection #2,” etc. Any objection must recite *precisely* the provision of this Report and Recommendation to which it pertains. Not later than fourteen days after service of an objection, the opposing party must file a concise response proportionate to the objections in length and complexity. The response must specifically address each issue raised in the objections, in the same order and labeled as “Response to Objection #1,” “Response to Objection #2,” etc.

Dated: December 8, 2015

s/ Mona K. Majzoub  
MONA K. MAJZOUB  
UNITED STATES MAGISTRATE JUDGE

### **PROOF OF SERVICE**

I hereby certify that a copy of this Report and Recommendation was served upon counsel of record on this date.

Dated: December 8, 2015

s/ Lisa C. Bartlett  
Case Manager